

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**DAVID W. W. ADAMI and HEATHER L.  
GIGLIO, CO-ADMINISTRATORS of the  
ESTATE OF FREDERICK J. ADAMI,  
DECEASED.,**

**Plaintiffs,**

**vs.**

**COUNTY OF BUCKS, BRIAN KIRCHER,  
PATRICK ROONEY, STEVEN COLUMBIA,  
C.O. KNONEBORG, LANGSTON MASON,  
TIMOTHY RICCI, DAVID GRESKO,  
PRIMECARE MEDICAL, INC., ET AL.**

**Defendants.**

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**CIVIL ACTION**

**NO. 2:19-cv-02187-JS**

**COUNTY DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFFS'  
MOTION IN LIMINE FOR AN ADVERSE INFERENCE**

Defendants County of Bucks, Brian Kircher, Patrick Rooney, Steven Columbia, C.O. Knoneborg, Langston Mason, Timothy Ricci and David Gresko ("County Defendants"), by and through their counsel, submit this opposition to Plaintiffs' Motion in Limine for an Adverse Inference.

**BACKGROUND**

Decedent, Frederick Adami, alleges a civil rights claim pursuant to 42 U.S.C. §1983 against the individual County Defendants and the County of Bucks, separately. Plaintiffs' Complaint arises out of Mr. Adami's death while he was housed at the Bucks County Correctional Facility, related in part to his opioid drug addiction and detox. Plaintiffs seek recovery of all available damages under the Wrongful Death Act of Pennsylvania and the Survival Act. *See* Pls.' Compl. ¶¶112 – 124.

Plaintiffs move for sanctions for the failure to preserve electronically stored information from two video surveillance cameras under the guise of a motion in limine. Plaintiffs' motion does not even address Rule 37(e), which governs spoliation motions and electronically stored information ("ESI"). In considering a motion for sanctions, the Court is required to conduct an extensive analysis, after proper motions and responses are filed, before any relief is granted or denied. *Martin v. Wetzel*, No. 1:18-CV-00215-RAL, 2020 WL 6948982, at \*2 (W.D. Pa. Nov. 25, 2020) (digital video evidence qualifies as ESI); *Manning v. Safelite Fulfillment, Inc.*, No. CV 17-2824 (RMB/MJS), 2021 WL 3557582, at \*4 (D.N.J. Apr. 29, 2021), report and recommendation adopted, No. 17-2824 (RMB/MJS), 2021 WL 3542808 (D.N.J. Aug. 11, 2021). For this reason alone, Plaintiffs' motion should be denied.

In addition to relying on outdated caselaw and ignoring the burdens imposed on Plaintiffs by Rule 37, Plaintiffs seek to impose sanctions against all County Defendants.<sup>1</sup> As the Individual Officers had no notice, or even the ability to preserve any electronically stored information, there is no basis for any motion seeking sanctions to be imposed against those Defendants. The imposition of any sanction would unduly prejudice the Individual Officers.

Finally, as will be detailed, there is no basis for the imposition of an adverse inference as to the County. The County took reasonable steps to preserve the video. But mechanical issues, and limitations in the capacity of the County's video and storage system, prevented the complete export of video from cameras two and five in Module A. Nevertheless, the County successfully preserved most of the video from the night of Mr. Adami's death. Accordingly, there is no

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<sup>1</sup> For clarification purposes, the County of Bucks shall individually be referred to herein as the "County." The individual corrections officers named in the Complaint (Brian Kircher, Patrick Rooney, Steven Columbia, C.O. Knoneborg, Langston Mason, Timothy Ricci and David Gresko) shall be referred to herein as the "Individual Defendants."

prejudice to Plaintiffs' case. For these reasons and those that follow, Plaintiffs' motion for an adverse inference should be denied.

**A. Standard Applicable to a Motion Requesting an Adverse Inference.**

Rule 37(e) provides a uniform standard governing motions seeking a spoliation sanction with respect to ESI and it provides the "exclusive remedy." *Bistrrian v. Levi*, 448 F. Supp. 3d 454, 467 (E.D. Pa. 2020). Digital surveillance video qualifies as ESI and any request for the imposition of sanctions must, therefore, satisfy the requirements of Rule 37(e). *See id.*

Rule 37(e) provides that "spoliation occurs where ESI 'that should have been preserved in the anticipation or conduct of litigation is lost because a party failed to take reasonable steps to preserve it, and it cannot be restored or replaced through additional discovery.'" *Id.* at 465 (quoting Fed. R. Civ. P. 37(e)). Before any question of spoliation can be considered, "it is essential [to show] that the evidence in question [was] within the party's control." *See Mosaid Tech., Inc. v. Samsung Elec. Co.*, 348 F. Supp. 2d 332, 336 (D.N.J. 2004). The Court may consider what sanction to impose only if it finds that spoliation occurred. *Bistrrian*, 448 F. Supp. 3d at 466.

The Court may only impose an adverse inference instruction if the moving party can prove that the responding party "acted with the intent to deprive another party of the information's use in the litigation." *Id.* Thus, only bad faith can give rise to an adverse inference charge. *See id.*

**B. Plaintiffs' Motion is Improper and Unfairly Prejudicial as it Relates to the Individual Officers.**

There is no basis for the imposition of any sanctions as to the Individual Officers because it is undisputed that the Individual Officers were not on notice of any demand to preserve any ESI. *See* Pls.' Mtn. Ex. D (preservation letters to Warden Lagana and Director Pirolli).

Similarly, there is no argument or evidence that the Individual Officers had custody or control of the portions of the surveillance video at issue or that they had any ability to preserve said video. Thus, no sanctions are available or appropriate as to the Individual Officers. *See Mosaid Tech.*, 348 F. Supp. 2d at 336 (“[I]t is essential that the evidence in question be within the party’s control.”).

Consideration of an adverse inference as to the County must also be denied. As will be demonstrated below, Plaintiffs cannot establish spoliation or bad faith as to the County. Even if Plaintiffs could carry that burden, an adverse inference instruction would be prejudicial to the Individual Officers.

The only purpose of the introduction of the additional video surveillance would be to impeach, discredit, or perhaps credit the testimony of the Individual Officers. Plaintiffs posit that the missing video could have been relevant to the actions of the Individual Officers:

including 1) evidence of conversations between corrections officer, a PrimeCare nurse, and Mr. Adami’s cellmate, Bruce Gramiak when Mr. Gramiak told them that Mr. Adami was “really sick;” 2) Whether any corrections officer or inmate monitor went near enough to Mr. Adami’s cell sufficiently to provide monitoring for his withdrawal; 3) Whether the overnight guards in the middle of the night were responding to Mr. Adami’s cell when they walked towards the area of Mr. Adami’s cell.

Pls.’ Br. at 7 of 10. Plaintiffs speculate that the unavailable video would provide additional details about the movements of the prison employees during the overnight hours.

As Plaintiffs’ acknowledge, other video footage of Module A was preserved, available, and produced in discovery. *See* Pls.’ Br. at 2-3 of 10. Plaintiffs took extensive discovery from the Individual Officers about their actions on the night of January 27th. Plaintiffs do not point to any evidence to suggest that the sworn testimony of the Individual Officers was perjurious or inaccurate. Indeed, Plaintiffs only speculate that the unavailable videos would have contradicted

the Individual Officers' testimony, as such, the only claim Plaintiffs argue could have been impacted by the missing video is the claim against the Individual Officers.

An adverse inference is not available against those Individual Officers.<sup>2</sup> Plaintiffs do not articulate any materiality between their claims against the County and the unavailable video. Allowing for an adverse inference would be prejudicial to the Individual Officers. An adverse inference instruction from the Court mandating that the jury presume the unavailable video would have been detrimental to the County's defenses, would carry with it a stigma that could not be cured by way of any limiting instruction. This is because the jury will likely ascribe any shortfall on the part of the County itself to its employees as well. For these reasons, Plaintiffs' motion for an adverse inference should be denied.

**C. Federal Rule of Civil Procedure 37(e) Governs Plaintiffs' Motion and Plaintiff Fails to Prove Intent.**

As noted, Plaintiffs must first establish that actual spoliation occurred. If they are able to do so, Plaintiffs must further establish that any spoliation was done in bad faith. *Bistrain*, 448 F. Supp. 3d at 465-66. Plaintiffs cannot establish either requirement.

First, Plaintiffs cannot establish that the County failed to take reasonable steps to preserve the video from all of the cameras on Module A. Indeed, the deposition of the County's designee, Clark Fulton demonstrates that the County took more than reasonable steps to preserve the video.

Mr. Fulton testified that he received a copy of the preservation letters and that steps were taken to preserve the video from the cameras on Module A. *See* 2/12/22 Deposition of Clark Fulton at 45:8-16; 46:23 – 47:8 (attached hereto as Ex. A). As such, counsel's request for preservation was provided to the appropriate personnel.

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<sup>2</sup> Importantly, even if the missing video could have established that the Individual Defendants did not perform their duties strictly according to the policies, which the County Defendants deny, such negligence still would not constitute deliberate indifference.

Mr. Fulton further testified that the video from cameras one, two, three, and five were requested to be preserved for 60 days. *See id.* at 52:17 – 53:2. This was longer than the routine preservation of 30 days.<sup>3</sup> *See id.* at 53:7-15. This longer preservation time, however, created problems for the recording and running of the system. *See id.* at 53:16-21.

Mr. Fulton made multiple attempts to preserve the video from cameras two and five. With respect to camera two, Mr. Fulton testified that the change in preserving video from 30 days to 60 days “put a load on the server, this camera [two]’s server.” *Id.* at 56:19 – 57:12. As a result, when Mr. Fulton tried to obtain the video, “the export would not complete.” *Id.* at 57:10-12. Mr. Fulton also consulted the service provider, Honeywell about his inability to export the video. Honeywell advised that the “server [was] trying to do more than what it’s really made to do.” *Id.* at 57:13-16. Honeywell further advised that he was unable to access the video from Honeywell’s system and that the export of videos would be limited to the technology that was available within the prison. *See id.* at 58:2 – 20.

Mr. Fulton testified that he made several attempts to export the video from camera two during the preservation period, but he was unsuccessful. *See id.* at 60:11-14. Ultimately, Mr. Fulton testified that he was limited by the technology and multiple attempts through Honeywell to obtain the video through other means were unsuccessful. *See id.* at 63:12 – 65:2.

With respect to camera five (referred to as the “PTZ camera”), Mr. Fulton confirmed that the camera had been experiencing intermittent outages during the overnight hours on January 27-28th. The service provider, Honeywell, was contacted first thing in the morning on January 28th. *See id.* at 66:6-19. Mr. Fulton further testified that he downloaded all the available video

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<sup>3</sup> Mr. Fulton testified that the chief investigator, Frank Bochenek requested preservation of the video from the subject cameras to be extended from 30 days to 60 days.

from camera five and that he would have downloaded all available video if he did not encounter server and service issues. *See id.* at 78:9-20; 83:23 – 84:6 (“Q: All you know – what you can tell me is that after you got this letter, for the next several weeks, you were unable to download video that you would have otherwise wanted to download, correct? A: I attempted to download video that I could not do.”).

In sum, Mr. Fulton made multiple attempts to export all of the requested video over the course of nearly 60 days. He also sought intervention from Honeywell to help resolve the technical issues but Honeywell was unable to access and preserve the video from its own database. *See id.* at 58:2 – 20; 63:12 – 65:2; 88:4 – 89:8. Mr. Fulton’s testimony establishes that the County took reasonable efforts to preserve the requested video.

There are three factors that are relevant to assessing whether a party took reasonable steps to preserve ESI:

First, Rule 37(e) recognizes that perfection is often impossible given the “ever-increasing volume of electronically stored information.” Second, the Rule is to be applied with sensitivity to a party’s “sophistication with regard to litigation.” Third, “the routine, good-faith operation of an electronic information system” is a “relevant factor” in evaluating the reasonableness of a party’s preservation efforts, “although the prospect of litigation may call for reasonable steps to preserve information by intervening in that routine operation.”

*Bistran*, 448 F. Supp. 3d at 474. Thus, Rule 37(e) applies “only if the information was lost because the party failed to take reasonable steps to preserve” it. *Id.* Here, Mr. Fulton testified as to the efforts that were made to preserve the video from cameras two and five. He also provided testimony about the technical limitations that prevented the export of the videos. These were reasonable steps and Plaintiffs have failed to demonstrate any spoliation. *See id.* For this reason, Plaintiffs’ motion for an adverse inference should be denied. Because there is no spoliation, the Court does not even need to address the question of whether the deletion of the subject video was in bad faith. *See id.*

However, even if Plaintiffs could have established spoliation, Rule 37(e) warrants an adverse inference “only if a party acted ‘with the intent to deprive another party of the information’s use in the litigation.’” *Id.* at 475. In other words, even if spoliation occurred, Plaintiffs would still need to demonstrate bad faith. *See id.* Plaintiffs cannot do so here. It is undisputed that the prison administration alerted Mr. Fulton to the need to preserve the requested video. Additionally, the repeated and continuous efforts made by Mr. Fulton to export all of the video from cameras two and five are the antithesis of bad faith and a desire to deprive Plaintiffs of the information. Plaintiffs’ motion must be denied.

### CONCLUSION

For these reasons, Plaintiffs’ motion in limine for an adverse inference should be denied.

Dated: March 4, 2022.

Respectfully submitted,

/s/ Kerri E. Chewning

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# **EXHIBIT A**



1           VIDEOTAPED ZOOM deposition of  
2   CLARKE FULTON, taken pursuant to notice,  
3   beginning at 9:30 a.m., on the above  
4   date, before LISA MARIE CAPALDO, RPR,  
5   Registered Professional Reporter and  
6   Notary Public in and for the Commonwealth  
7   of Pennsylvania.

8                               -   -   -

9  
10  
11                               GOLKOW LITIGATION SERVICES  
12           877.370.3377 ph | 917.591.5672 fax  
                              deps@golkow.com  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

1 APPEARANCES:

2

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17 Bucks County

18

19

20

21

22

23 Also Present: William Chan, Videographer

24

1 - - -  
2 I N D E X  
3 - - -  
4

5 Testimony of:

6 CLARKE FULTON  
7

8 By Mr. Inscho 10  
9

10 - - -  
11 E X H I B I T S  
12 - - -

13 NO.	DESCRIPTION	PAGE
14 P-61	Defendants' Objections and Supplemental Responses	49
15 P-62	Side-by-Side Photo Camera Two and Three	67
16 P-63	4/8/19 Honeywell E-mail Bates Stamp 470-473	71
17 P-64	Camera Event Report Bucks-Adami-000133-000146	81

1 - - -

2 DEPOSITION SUPPORT INDEX

3 - - -

4

5 Direction to Witness Not to Answer

6 Page Line Page Line Page Line

7 None

8

9

10 Request for Production of Documents

11 Page Line Page Line Page Line

12 None

13

14 Stipulations

15 Page Line Page Line Page Line

16 None

17

18

19 Question Marked

20 Page Line Page Line Page Line

21 None

22

23

24

1           A.     I personally downloaded some  
2 of the video and was aware of and/or saw  
3 other video that investigations and  
4 operations had stored -- or exported and  
5 saved.

6           Q.     And you tell me now that  
7 your recollection has been refreshed.

8                     What was your involvement in  
9 preserving video for Mr. Adami?

10          A.     So after the event, the  
11 warden received a letter from an  
12 attorney. I don't know if it was you,  
13 personally, or some office. And he  
14 brought that letter to the morning staff  
15 meeting and showed it to the director and  
16 then showed it to me.

17                     I took that letter and  
18 either scanned it myself or gave it to  
19 the administrative assistant to scan and  
20 sent it to the solicitor's office.

21                     Sometime after that, I  
22 received, I think, an e-mail from  
23 Frank Chernak explaining that he was  
24 now --

1 MR. KOLANSKY: Hold it.  
2 Yeah. Beyond that, don't say  
3 anything else about what Frank  
4 told you.

5 THE WITNESS: Oh, okay.  
6 I received --

7 MR. KOLANSKY: You can say  
8 what you did as a result of any  
9 e-mail, but you can't say what he  
10 told you.

11 THE WITNESS: I received an  
12 e-mail --

13 - - -

14 (Overlapping speakers.)

15 - - -

16 BY MR. INSCHO:

17 Q. What did you do next?

18 A. I'm sorry. I didn't hear  
19 you, sir.

20 Q. You got an e-mail from  
21 Frank Chernak.

22 What did you do next?

23 A. I started to try and  
24 download video.



1           Q.     And what video did you  
2 download?

3           A.     The camera that looked -- or  
4 actually showed either the cell or a  
5 portion of the cell and the -- what I  
6 call the PTZ, or tilt, pan, zoom -- TPZ  
7 camera, which was the one in the center  
8 of the module.

9           Q.     Were you involved in --  
10 personally in preserving video of any  
11 other cameras?

12          A.     No.

13          Q.     So we're talking about  
14 Module A.

15                   And would you have, at the  
16 time, had access to all of the cameras on  
17 Module A?

18          A.     Yes.

19          Q.     And there are five cameras  
20 on Module A, correct?

21          A.     Yes.

22          Q.     And so we can kind of talk  
23 about that in this deposition.

24                   You have the interrogatories

1   that counsel previously sent, and it  
2   refers to counsel one -- I'm sorry --  
3   camera one as a camera that observes an  
4   officer at the workstation right where  
5   you come into the block.

6                   Is that a name, by the way,  
7   that you would use for -- would you use  
8   that? Would you call that camera one at  
9   the jail, or is that just a name that the  
10  lawyers --

11                  THE WITNESS: That's just a  
12                  number that I think Mr. Chernak  
13                  used to identify -- somebody is  
14                  knocking at my door.

15                  Can I just quick --

16                  MR. INSCHO: Go ahead.

17                  THE VIDEOGRAPHER: Going off  
18                  video record, 9:59 a.m.

19                  -   -   -

20                  (Whereupon, a brief recess  
21                  was taken.)

22                  -   -   -

23                  THE VIDEOGRAPHER: Back on  
24                  video record, 10:01 a.m.

1 BY MR. INSCHO:

2 Q. So we're going to use  
3 counsel's nomenclature for the cameras.

4 A. Okay.

5 Q. Do you have the  
6 interrogatory there in front of you?

7 A. I don't. It was sent to me  
8 in soft copy. I don't have it printed or  
9 anything.

10 Q. I'm just pulling it up. I'm  
11 going to mark it as Exhibit P-61.

12 - - -

13 (Whereupon, Exhibit P-61 was  
14 marked for identification.)

15 - - -

16 BY MR. INSCHO:

17 Q. Mr. Fulton, can you see the  
18 interrogatory here?

19 A. Yes.

20 Q. So just --

21 - - -

22 (Overlapping speakers.)

23 - - -

24 MR. KOLANSKY: I apologize.

1 I just don't know where you are  
2 without scrolling through mine.

3 MR. INSCHO: Oh, I'm sorry.  
4 I'm on page four --

5 MR. KOLANSKY: Okay.  
6 Thanks.

7 MR. INSCHO: -- in the  
8 supplemental response to  
9 interrogatory number four.

10 MR. KOLANSKY: Yeah. Okay.

11 MR. INSCHO: And this is  
12 where we talk about -- where he  
13 gives each of the five cameras  
14 names.

15 MR. KOLANSKY: Got it.

16 BY MR. INSCHO:

17 Q. Camera one is a camera by  
18 the entrance to the module pointed at the  
19 officer's workstation.

20 Camera two is the fixed  
21 camera mounted on the second tier that  
22 looks inward towards the back of the  
23 module.

24 Does that make sense to you,

1 Mr. Fulton?

2 A. Yes.

3 Q. Camera three is a fixed  
4 camera mounted on the second tier  
5 concrete deck that looks outward toward  
6 the front of the module.

7 Does that make sense to you,  
8 Mr. Fulton?

9 A. Yes.

10 Q. That's the camera you've  
11 described that was saved by -- one of the  
12 cameras that was saved by you, correct?

13 A. Yes, if it's the one that  
14 shows the cell entry -- the cell entry  
15 door or area where Mr. Adami was.

16 Q. The fourth camera looked  
17 into the phone room?

18 A. Yes.

19 Q. And then camera five is a  
20 sweeping camera, which I believe is the  
21 camera you described as the TPZ camera?

22 A. Yes, the tilt, pan, zoom.

23 Q. I don't have much to say  
24 about camera one and camera four, but I

1 want to talk about cameras two, three,  
2 and five, okay?

3 Is it accurate, Mr. Fulton,  
4 that you knew, and the county was aware,  
5 that as of receipt of the letter from my  
6 office, that the cameras would be deleted  
7 in either 30 or 60 days?

8 A. Yes.

9 Q. There's discussion in this  
10 interrogatory, which I will show you,  
11 that indicates some of the cameras' tape  
12 you saved for 60 days, or was it the time  
13 saved for 60 days.

14 Do you have a recollection  
15 of that?

16 A. Yes.

17 Q. Which cameras were preserved  
18 for 60 days?

19 A. I believe it was camera one,  
20 two, three, and five, I believe.

21 I wasn't the one who  
22 requested them to be preserved. That  
23 came from Frank Bochenek, the chief  
24 investigator, if I recall. But it may

1 have been all five. I don't know for  
2 sure.

3 Q. And why were they saved for  
4 60 days?

5 A. Again, I don't remember if  
6 all five were or specific ones were.

7 Q. Why were they saved for  
8 60 days?

9 A. The investigations  
10 department -- I think it was Frank  
11 specifically, the chief investigator --  
12 had been conducting some investigation on  
13 that block prior to this event and had  
14 asked that those cameras be extended from  
15 a normal 30-day cycle out to 60 days.

16 Q. And the county was able to  
17 do that?

18 A. We can do that using the  
19 software, but it does create other issues  
20 or problems in the system of recording  
21 and running.

22 Q. And this was investigating  
23 some sort of inmate activity?

24 A. I don't know what he was

1 investigating. I wasn't privy to that.

2 Q. It wasn't investigating an  
3 inmate death, correct?

4 A. I don't know what it was  
5 investigating.

6 Q. So I'm going to go down to  
7 camera two, okay? And bear with me. I  
8 will show you what's marked as  
9 Exhibit P-35.

10 Did this come up for you?

11 A. It did.

12 Q. So this is a still shot.

13 Will you agree with me that  
14 this is a still shot of what we're  
15 calling camera two?

16 A. Yes.

17 Q. And camera three is actually  
18 seen here in the middle tier?

19 A. Yes.

20 Q. And so I'm showing you P-57.

21 A. Nothing came up. Oh, okay.

22 Q. Do you see the clip P-57?

23 A. Yes.

24 Q. This is camera three.



1                   This is the one that you  
2 preserved, correct?

3           A.     Yes.

4           Q.     And Mr. Adami's cell is in  
5 the direction of where this -- cell five  
6 is in the direction of where this officer  
7 is walking, correct?

8           A.     Over to the right.

9           Q.     I guess he's not -- you  
10 can't see him moving in that particular  
11 clip, but the way he's facing is towards  
12 cell five, correct?

13          A.     Well, let's see. It would  
14 be one, two, three -- yes.

15          Q.     Now, I'm going to bring  
16 up -- do you have the two photos next to  
17 each other, Mr. Fulton?

18          A.     Yes.

19          Q.     So the photo on the right is  
20 camera three.

21                   And you preserved -- the  
22 camera you preserved, correct?

23          A.     Yes.

24          Q.     And the photo on the left is

1 camera two.

2 And on camera two,  
3 Mr. Adami's cell is off to the left-hand  
4 side, correct?

5 A. Yes.

6 Q. So what we're seeing here --  
7 if I'm correct, we're seeing a lot of the  
8 same things.

9 There's overlap in these two  
10 cameras, correct?

11 A. Yeah. In the dayroom, yes.

12 Q. The dayroom, right.

13 So the gentleman sitting in  
14 camera two, the gentleman sitting here in  
15 the far lower left-hand corner, that  
16 chair is the same chair by where the  
17 gentleman is standing in camera three?

18 A. That's correct.

19 Q. Did you preserve any of the  
20 video from camera two?

21 A. No.

22 Q. Why not?

23 A. So as I mentioned, when  
24 investigations asked for those cameras to

1 be extended and record more than 30 days,  
2 it put a load on this server, this  
3 camera's server. And trying to export  
4 video became almost impossible. The  
5 server was working beyond its capacity,  
6 if you will.

7 And I'll preface this all as  
8 I'm not a technical IT person, but this  
9 is how I understand it:

10 So when I tried to export  
11 video, it would error. The export would  
12 not complete.

13 And in speaking to Honeywell  
14 about that, they said, well, the server's  
15 trying to do more than what it's really  
16 made to do.

17 And the network -- the  
18 county network that it wrote on is having  
19 difficulty pulling all these files over  
20 to my workstation, which is the one that  
21 I went into in December to find the files  
22 that I had dumped.

23 So the attempts that I did  
24 to pull any video errored and failed for

1 a while, quite a while.

2 And it was then I asked  
3 Honeywell -- I went to Honeywell and  
4 said, well, is there any other way to get  
5 this video? Can someone from Honeywell  
6 go into the database and just extract it?

7 And Clem Young researched  
8 that with the engineers and technicians  
9 and Honeywell and said, no. You can't do  
10 that. You have to use the DVM  
11 application, which was on my workstation.

12 So it was discussed some  
13 more. And I met with the director, and  
14 we decided to try and do some exporting  
15 when the network was not as busy, meaning  
16 people left for the day. There was just  
17 less computer activity or users on the  
18 network. So I stayed and worked,  
19 actually, until 1:00 in the morning,  
20 pulling off the video that I did produce.

21 Q. So when you stayed after  
22 hours, you were able to download  
23 camera three. Is that right?

24 A. I was, yes.

1           Q.     You were also able to  
2 download some of the PTZ camera as well?

3           A.     That's my recollection,  
4 yeah, the clip from the PTZs.

5           Q.     So if I understand it --  
6 then why is that the reason why you  
7 didn't download camera two?

8           A.     So when I did this, it was  
9 the day before all this was being  
10 overwritten and gone and deleted.

11          Q.     When did you first attempt  
12 to download video?

13          A.     Probably a week after the  
14 event.

15          Q.     So at that point, you would  
16 have had a substantial amount of time  
17 before the video was going to be deleted?

18          A.     Yes.

19                 MR. KOLANSKY:  Objection to  
20 the form of the question.

21 BY MR. INSCHO:

22          Q.     Am I correct?  You would  
23 have had about 53 days if it was  
24 seven days after the event?

1           A.     Well, it would be 60 days,  
2     yeah, minus -- yeah, about 50 days.

3           Q.     And it's your recollection  
4     that the time when you finally were able  
5     to download video when you stayed after  
6     hours, that was on literally the last day  
7     before it deleted?

8           A.     Yes.

9           Q.     And, of course, you knew  
10    that deadline was coming. Is that right?

11          A.     Well, I was attempting to  
12    download for -- every week or two, once  
13    or twice a week, during that whole  
14    timeframe.

15          Q.     Was the county aware -- were  
16    your superiors at the county aware that  
17    you were unable to download this video  
18    which was going to be deleted at a  
19    certain point?

20          A.     The director of corrections  
21    was aware that there were issues with the  
22    cameras, yeah -- with the system. And  
23    counsel was aware.

24          Q.     So at this point, you, the

1 director, and counsel all knew that there  
2 was essentially a deadline where the  
3 video was going to be deleted and not  
4 going to be available anymore, correct?

5 A. Counsel knew that I was  
6 trying to download video, and I was  
7 having difficulty.

8 Q. Did counsel also know that  
9 at some point, that video was just going  
10 to be overwritten and wouldn't be  
11 available anymore?

12 A. Yes.

13 Q. Did anyone watch the  
14 camera two video that couldn't be  
15 preserved?

16 MR. KOLANSKY: If you know.

17 THE WITNESS: Yeah.

18 I don't know who watched  
19 what. I only know what I  
20 downloaded.

21 BY MR. INSCHO:

22 Q. So the video that you  
23 downloaded for camera three, you  
24 downloaded because you were able to get

1     that done in time.  Is that fair?

2             A.     Yes.

3             Q.     And you didn't download  
4     camera two because you couldn't get it  
5     done in time?

6             A.     Well, when I looked at what  
7     was there, that was the camera that  
8     showed the cell, and that's the one I  
9     took as a priority to download.

10            Q.     Had you had -- had you had  
11    more time or had it not been -- did not  
12    have the system issues, would you have  
13    downloaded camera two as well?

14                   MR. KOLANSKY:  Objection.  
15                   Form of the question.

16                   You can answer.

17                   THE WITNESS:  Repeat your  
18                   question?  I'm sorry.

19  BY MR. INSCHO:

20             Q.     Sure.  Sure.

21                   Had you had more time -- in  
22    other words, had it not been the very  
23    last day when you were able to download  
24    the video, had you had another 30 days or



1 had there not been the system issues  
2 which caused all the problems before  
3 that, would you have downloaded  
4 camera two as well?

5 MR. KOLANSKY: Same  
6 objection.

7 Go ahead.

8 THE WITNESS: I would have  
9 attempted to do it, probably.  
10 Yes.

11 BY MR. INSCHO:

12 Q. I want to talk about the --  
13 did anyone make any suggestions to you --  
14 either IT, Honeywell, counsel, anyone --  
15 about any other ways to preserve this  
16 video as the deadline was coming when it  
17 was going to get overwritten?

18 MR. KOLANSKY: Other than  
19 counsel, you can answer that.

20 BY MR. INSCHO:

21 Q. You can answer.

22 A. Yes, Honeywell.

23 Q. Honeywell did.

24 What did they suggest?

1           A.       So Honeywell was aware of  
2     our problems on the network, and not with  
3     just this server but all the camera  
4     servers and problems doing some  
5     downloads.

6                        So my first request to  
7     Honeywell was, you know, what can you do  
8     about this.

9                        They said they don't control  
10    the network. That's the county's.

11                      And as I explained, my next  
12    question was:

13                      Is there a way to just go  
14    into the database, then, without using  
15    the application? Could Honeywell do that  
16    and just fetch this stuff off and store  
17    it somewhere?

18                      Clem Young went back and  
19    researched that. I believe he talked to  
20    Ken Chapel and the engineer,  
21    John Schulberger, I believe his name was.

22                      And they said, no. You have  
23    to use the application. You have to use  
24    your workstation and the network.

1                   So that's what I was left  
2 with doing.

3           Q.     Do you know if anyone from  
4 the county ever suggested contacting the  
5 counsel that had requested the video be  
6 preserved during the time period before  
7 the video was deleted?

8           A.     Did I suggest that? No.

9           Q.     Do you know if anyone did?

10          A.     I don't know.

11          Q.     With regard to the PTZ  
12 camera, which we are referring to as  
13 camera five, I understand there were  
14 intermittent issues with camera five  
15 starting at 1:00 a.m. on the 28th, the  
16 day Mr. Adami was found in his cell.

17                   Is that accurate?

18          A.     I believe that's when it's  
19 reported. There may have been --  
20 somebody might not have noticed those --  
21 it could have started before that.

22                   But I think at 1:00 a.m.,  
23 the shift commander notices that there's  
24 a problem with not only that TPZ but, I

1 think, all the PTZs that were on that  
2 particular server and switch.

3 Q. Is that your recollection,  
4 or is that something that you reviewed  
5 prior to the deposition today?

6 A. I read the shift report last  
7 night where the lieutenant reports that  
8 at 1:00 a.m., that he's got problems with  
9 cameras.

10 Q. Do you have any reason to  
11 believe there were any issues with the  
12 TPZ cameras prior to 1:00 a.m.?

13 A. No.

14 Q. And is it your understanding  
15 that those problems then were described  
16 as intermittent with the cameras  
17 throughout the morning time from  
18 1:00 a.m. until 6:30, when Honeywell was  
19 called?

20 A. I'm not sure what you mean  
21 by intermittent.

22 Q. Well, that's not my choice  
23 of words, but I can show you -- I'm going  
24 to show you a document which I'll mark as

1 P-62.

2 - - -

3 (Whereupon, Exhibit P-26 was  
4 marked for identification.)

5 - - -

6 BY MR. INSCHO:

7 Q. I just want to make sure I'm  
8 looking at the right e-mail. Yeah. This  
9 is Bates number P-470 to 473.

10 It's an e-mail exchange from  
11 a Samuel Rosenstein at Honeywell with a  
12 Brett Waldren, Michael Hayes, Alim Jumet  
13 at Honeywell about proposed answer to  
14 question from Bucks County.

15 Do you see that?

16 A. Okay.

17 Q. It attaches a document where  
18 it says, Honeywell's responses to  
19 questions from Bucks County.

20 It says, one: When, why,  
21 and for how long was the TPZ camera in  
22 A module at the Bucks County Correctional  
23 Facility not functioning properly on  
24 January 28th, 2018?

1 Do you see that?

2 A. Yes.

3 Q. And the answer here is that  
4 according to the event log, of which the  
5 TPZ camera is a part, intermittent  
6 failure started at 1:19.

7 Do you see that?

8 A. Yes.

9 Q. And you have no indication  
10 that the camera wasn't working properly  
11 up until 1:19.

12 Can you tell me whether or  
13 not it was working part of the time  
14 between 1:19 and 6:30?

15 A. So I don't become aware of  
16 all this until after the fact. So this  
17 all happens in the overnight hours,  
18 early-morning hours of January 28, when  
19 the lieutenant observes, through  
20 observation, that he's got camera  
21 problems.

22 Q. I understand. I understand  
23 you learned about all this afterwards.

24 Afterwards, have you

1    learned, was there any video between 1:19  
2    and 6:30 a.m. from the TPZ camera on  
3    Module A?

4           A.     I don't recall.

5           Q.     Do you understand when I  
6    hear intermittent, I hear as it was  
7    working some of the time and not working  
8    other parts.

9                    Would that be your  
10   understanding of intermittent?

11           A.     Yeah. I would say so.  
12   Sure.

13           Q.     The video preserved from the  
14   TPZ camera stops at 7:30 p.m.

15                    Did you preserve the  
16   video --

17                           -   -   -

18                    (Whereupon, a discussion off  
19   the record occurred.)

20                           -   -   -

21                    THE VIDEOGRAPHER:   Going off  
22   video record, 10:26 a.m.

23                           -   -   -

24                    (Whereupon, a brief recess

1           was taken.)

2                               -   -   -

3                       THE VIDEOGRAPHER:   Back on  
4           video record, 10:33 a.m.

5   BY MR. INSCHO:

6           Q.     I'm sharing, again, that  
7   P-62 with you, Mr. Fulton.

8                       You would agree with me that  
9   based on what Honeywell told you, the TPZ  
10   camera was working for periods of time  
11   between 1:19 a.m. and 6:30 a.m., correct?

12           A.     Well, this is saying that  
13   they provided some kind of a report that  
14   showed activity on the network with the  
15   cameras.   Yes.

16           Q.     And that based on this  
17   statement here, it says, intermittent  
18   failures that sometimes it would be  
19   working, and sometimes it would not,  
20   correct?

21           A.     Well, it's referring to TPZ.  
22   I don't see where it's referring to the  
23   A module one because I think it was  
24   actually all the TPZs in a bunch of



1 different places.

2 Q. So I'll show you the -- I'll  
3 mark it as P-63.

4 - - -

5 (Whereupon, Exhibit P-63 was  
6 marked for identification.)

7 - - -

8 BY MR. INSCHO:

9 Q. This is the actual event  
10 summary report provided by Honeywell.

11 Do you see the document?

12 A. Yes.

13 Q. And it goes in descending  
14 order.

15 So we'll go to the bottom,  
16 which is page 146. And the first times  
17 here we see are on the 27th at 7:54 p.m.,  
18 and then it describes the camera over  
19 here in the second-to-the-last column.

20 Do you see that?

21 A. Yep.

22 Q. So if we go to 145, we see  
23 the first mention here, DMV camera,  
24 A mod, PTZ.

1                   Would you read that as the  
2 A module PTZ?

3           A.     Yeah.  Yeah.

4           Q.     And that indicates here at  
5 1:19 and two seconds, that it failed.

6                   That would be the first  
7 indication that the camera wasn't  
8 working, correct?

9           A.     Well, I am not a Honeywell  
10 technician, but it means something is  
11 wrong.  Yep.

12           Q.     And then at 1:19:03, it has  
13 an action for the same camera, and it  
14 says, okay.

15                   Do you see that?

16           A.     Yep.

17           Q.     And I'll represent to you  
18 that we can go up here, and we can go  
19 through it.

20                   1:19 and 20 seconds, it  
21 says, failed on Bates number 144.

22                   And then at the same time,  
23 it says, okay.

24                   We can go through that all

1 the way through until 6:30.

2 A. Okay.

3 Q. But --

4 - - -

5 (Overlapping speakers.)

6 - - -

7 MR. KOLANSKY: --

8 intermittent failures.

9 MR. INSCHO: That's exactly  
10 the question I've got.

11 BY MR. INSCHO:

12 Q. Indicating that there were  
13 intermittent failures during that time.

14 Do you have any reason to  
15 believe that there was not at least some  
16 video available during this period of  
17 time where there were intermittent  
18 failures?

19 A. So I don't know -- this is  
20 telling me -- the way I interpret this,  
21 it's telling you that this camera is  
22 going on and off -- you know, it's having  
23 these issues.

24 But when it says it's okay,

1 I don't know if it's actually recording  
2 or if it's just showing you something.

3 Q. Well, did you ever look to  
4 see if there were any PTZ recordings for  
5 Module A from 1:19 until 6:30 a.m.?

6 A. I don't remember  
7 specifically, but I probably did.

8 Q. So let's start with the time  
9 7:30 p.m. until 1:19 a.m.

10 A. What date are you on?

11 Q. I'm sorry?

12 A. What date are you on?

13 Q. 1/27. So from January 27,  
14 7:30 p.m. until January 28th at 1:19.

15 During that time, there's no  
16 indication there were any issues with the  
17 PTZ camera.

18 And why was the video from  
19 that time not preserved?

20 MR. KOLANSKY: Objection to  
21 the form of the question.

22 - - -

23 (Overlapping speakers.)

24 - - -

1 MR. KOLANSKY: Hold on.

2 You already said you don't  
3 know if it was recording, but you  
4 can go on from there.

5 MR. INSCHO: Well, no, no,  
6 no. I'll re-ask the question.

7 BY MR. INSCHO:

8 Q. Is there any reason that you  
9 have -- do you have any indication that  
10 the camera was not recording and not  
11 having any issues at all prior to  
12 1:19 a.m.?

13 A. On the 28th?

14 Q. On the 28th.

15 A. Yeah. I don't recall of any  
16 issues. No.

17 Q. So my question is:

18 From 7:30 p.m. on the 27th  
19 until 1:19 a.m. on the 28th, why was that  
20 video not preserved?

21 A. It was deleted. It was  
22 gone.

23 Q. Why was it not saved before  
24 it was deleted?

1           A.     Attempts to do that, as I  
2     said, would error out. It wouldn't work.

3           Q.     How were you able to  
4     preserve the video up until 7:30 p.m. but  
5     not able to preserve the video  
6     afterwards?

7           A.     I'm not sure -- I'm not  
8     getting your question. I'm sorry.

9           Q.     Well, I have TPZ video saved  
10    that's been produced up until 7:30 p.m.  
11    on the 27th of January.

12          A.     Okay.

13          Q.     You were able to save that  
14    video, right?

15                   Why were you not able to  
16    save the video after 7:30 -- from 7:30 to  
17    1:19?

18          A.     It was gone or I left at  
19    1:00 in the morning.

20          Q.     So the same reasons you told  
21    me before.

22                   You didn't preserve it  
23    because you essentially ran out of time?

24          A.     Yes.

1 Q. Is that fair?

2 A. Yeah.

3 Q. Did you ever --

4 MR. KOLANSKY: David, I  
5 object to that.

6 I think there's an  
7 additional piece to that that  
8 you're not asking, which is about  
9 the system timing out and the  
10 system breaking down and not  
11 allowing him in.

12 So, yeah. Maybe he ran out  
13 of time. But there were reasons  
14 behind that because for a period  
15 of time, the system was crashing,  
16 or whatever the right words are  
17 for not allowing recordings to be  
18 pulled down.

19 He's already answered that.  
20 I'm just repeating something he's  
21 already said. I don't think you  
22 included it in this question.

23 MR. INSCHO: I understand.

24 BY MR. INSCHO:

1           Q.     On the 60th day, Mr. Fulton,  
2     you stayed late and were able to download  
3     some of the video?

4           A.     I don't know if it was  
5     exactly the 60th day. 58, 59, somewhere  
6     in there. But, yes. I stayed until, I  
7     think it was 1:00 in the morning, and  
8     downloaded video.

9           Q.     And the reason you weren't  
10    able to download more video in that same  
11    fashion is because the video was then  
12    deleted?

13          A.     It was unavailable. I  
14    did -- if I recall. I'd have to refer  
15    back to the document -- I think I did,  
16    like, 20 hours of camera -- I think it  
17    was camera three is the one where most of  
18    that video is that I downloaded and then  
19    whatever was available on the PTZ at that  
20    time.

21          Q.     Would you have had -- absent  
22    the time constraint of the video being  
23    deleted and the issues you had with the  
24    errors prior to that, not being able to



1 download it, would you have downloaded  
2 all of the TPZ video that was available?

3 MR. KOLANSKY: Objection.

4 Calls for speculation.

5 You can answer.

6 THE WITNESS: I would have  
7 downloaded -- yes.

8 BY MR. INSCHO:

9 Q. So there was PTZ video that  
10 you would have downloaded if you could  
11 have, but you were not able to because of  
12 the technical issues and then the timeout  
13 of the video being overwritten.

14 Is that fair?

15 MR. KOLANSKY: Objection. I  
16 don't think he can possibly know  
17 that because he doesn't know what  
18 all was there now. He says he  
19 would have if he could have. He  
20 doesn't know what was there.

21 You're asking him now if the  
22 reason was because of running out  
23 of time. He doesn't even know it  
24 was there. He was trying to get

1           it downloaded.

2                   As he said, a number of  
3           times and in the interrogatories,  
4           that there were system failures,  
5           and that was the main cause.

6                   I understand where you're  
7           going with this. I understand  
8           that you're --

9                   MR. INSCHO: Okay.  
10          Respectfully, I get it. I get it.

11                  MR. KOLANSKY: Well, okay.  
12          But one more point.

13                  I'm not trying to prevent  
14          you from getting answers. I'm  
15          just trying to have you get  
16          answers that he has knowledge of.

17                  MR. INSCHO: Okay. But  
18          there is zero evidence anywhere  
19          that there was no video -- that  
20          there was video that was not  
21          recorded up until 1:19 a.m.  
22          There's just nothing to support  
23          that there was no video during  
24          that time from that camera.

1           There's nothing there. I mean,  
2           there's no reason --

3                       - - -

4                       (Overlapping speakers.)

5                       - - -

6                       MR. KOLANSKY: Except for  
7           his testimony that that system --  
8           there's nothing to support that  
9           there was or wasn't. The system  
10          wasn't allowing him to get it for  
11          intermittent periods for 60 days.  
12          He says he went in every week or  
13          so to try and get it done, and the  
14          system kept crashing.

15                      Finally they decided, at the  
16          end of the time, that this might  
17          work, and it did.

18                      MR. INSCHO: I'm going to  
19          show you what I'll mark as  
20          Exhibit-64.

21                      - - -

22                      (Whereupon, Exhibit P-64 was  
23          marked for identification.)

24                      - - -

1 BY MR. INSCHO:

2 Q. This is a letter from my  
3 office which was mailed to  
4 Christopher Pirolli, who was the director  
5 of corrections as of February of 2018,  
6 correct, Mr. Fulton?

7 A. Yes.

8 Q. And I believe you said that  
9 you would have gotten this letter asking  
10 to record information, and you would have  
11 either scanned it yourself or had it  
12 scanned, correct?

13 A. I don't recall this letter.  
14 I thought there was a letter that was  
15 sent to the warden.

16 Q. Do you see on the screen a  
17 letter addressed to the warden on the  
18 14th of February?

19 MR. KOLANSKY: No.

20 THE WITNESS: No.

21 BY MR. INSCHO:

22 Q. Now, this is a letter to the  
23 warden.

24 Would this have been a

1 letter like the one that you would have  
2 scanned or had scanned after it was  
3 received?

4 A. I believe this is it. Yes.

5 Q. And the last paragraph here  
6 says, with regard -- last sentence,  
7 brother, we would like to set up a  
8 mutually convenient time to view any  
9 video or photographs of the incident  
10 event prior to Mr. Adami's death. Please  
11 contact us to discuss scheduling.

12 Do you see that?

13 A. Yes.

14 Q. As far as you know, no  
15 opportunity was given to Mr. Adami's  
16 family or his attorney at any point prior  
17 to the video being deleted, correct?

18 A. I don't know what counsel  
19 may have done or not.

20 Q. You don't know of any,  
21 correct?

22 A. No, I don't.

23 Q. All you know -- what you can  
24 tell me is that after you got this

1 letter, for the next several weeks, you  
2 were unable to download video that you  
3 would have otherwise wanted to download,  
4 correct?

5 A. I attempted to download  
6 video that I could not do. Yes.

7 Q. Did you watch any of the  
8 video other than the video you were able  
9 to download?

10 A. No.

11 Q. So you don't know what is on  
12 the -- camera two that you weren't able  
13 to download, and you don't know what is  
14 on any of the PTZ video which you were  
15 unable to download, correct?

16 A. That's correct.

17 Q. Do you know if anyone at the  
18 county watched any of that video to  
19 determine whether or not it had anything  
20 relevant on it prior to it being erased?

21 A. I don't know what anybody  
22 else did.

23 Q. Do you have any reason to  
24 believe that someone from the county

1 would have sat down and watched that  
2 video at some point prior to it being  
3 erased?

4 MR. KOLANSKY: Object to the  
5 form.

6 You can answer.

7 THE WITNESS: I would refer  
8 to the investigations office, the  
9 district attorney's office, and  
10 the operations security office.  
11 They would be the people that I  
12 would think would do that or could  
13 do that or may or may not have. I  
14 don't know.

15 BY MR. INSCHO:

16 Q. So from your perspective as  
17 the guy who is trying to get the video  
18 before the video goes away, you don't  
19 remember any conversations where you  
20 said, hey, we should look at this video  
21 because I can't get it downloaded, and  
22 it's going to get deleted?

23 A. No.

24 Q. While you weren't able to

1 download the video, do you know if you  
2 were able to view it?

3 A. I believe you could view it.

4 Q. It was the kind of  
5 downloading it from the server that  
6 overloaded it. Is that fair?

7 A. Generally, again, I think  
8 there was multiple components to why it  
9 errored. But the application, the server  
10 and the network combined, yeah, were  
11 creating problems.

12 Q. And when you got the error  
13 is when you tried to download the video,  
14 correct?

15 A. You didn't get an error. It  
16 just stopped. It would not complete.

17 Q. Other than counsel -- or  
18 outside counsel for the county and  
19 Mr. Pirolli, who else was aware of the  
20 inability to download the video?

21 A. Probably the administrative  
22 assistant who worked for us in  
23 administration. She didn't do it, but  
24 she was probably aware of the problems of



1 us doing it.

2 And then Honeywell, a bunch  
3 of people at Honeywell were aware.

4 Q. How did you make the people  
5 at Honeywell aware of the issues that you  
6 were having downloading the video?

7 A. I either talked to them  
8 directly or called them.

9 Q. Do you know if anyone other  
10 than Mr. Clem did anything -- in other  
11 words, came out or tried to do  
12 anything -- to find the video?

13 A. So Clem was the on-site  
14 technician. I'm pretty sure he told me  
15 he spoke to Ken Chapel, who was also kind  
16 of a higher-level architecture guy for  
17 Honeywell who also came to our  
18 facilities, and then John Schulberger,  
19 the engineer who built and knew our  
20 system inside and out.

21 I may have raised a ticket  
22 for it also in the Honeywell system -- or  
23 Clem may have raised a ticket just to  
24 kind of account for his time. If he used

1 up time looking at something, I think he  
2 had to account for his time by putting a  
3 work ticket or a work order in.

4 Q. And this would be a ticket  
5 not with regard to the repair of the PTZ  
6 camera outage on the 28th but actually on  
7 the inability to download the video?

8 A. Yeah. His efforts to  
9 investigate that or whatever, yeah. He  
10 has to account for his hours somehow, and  
11 he may have done that. You'd have to ask  
12 him. I don't know if he did it or not.

13 Q. Do you know if you e-mailed  
14 at all with any of the Honeywell folks  
15 about this issue?

16 A. I don't recall.

17 Q. Do you know if anyone from  
18 Honeywell actually did anything?

19 In other words, did they  
20 actually try to access the system or take  
21 any steps to attempt to download that  
22 video?

23 A. I only know what was  
24 reported to me by Clem. I don't know

1    what these other folks he spoke to may or  
2    may not have done.

3           Q.     What Clem said is that they  
4    can't do it through the database?

5           A.     He told me that they could  
6    not export the video directly from the  
7    database, which is what I discussed with  
8    him.

9           Q.     Is it accurate that with  
10   regard to the -- camera two, that at no  
11   point did you view that video on the  
12   night of the 27th, into the 28th, and  
13   determine that it was irrelevant to any  
14   issues involving Mr. Adami, correct?

15          A.     I didn't view anything on  
16   the 27th and 28th.

17          Q.     And with regard to the PTZ  
18   video, same thing:

19                 You didn't view any of the  
20   video on the 27th and 28th and determine  
21   that it was not relevant to Mr. Adami or  
22   the monitoring of Mr. Adami or anything  
23   like that?

24          A.     You're not asking me if I

1 did it at that time on those dates.

2 You're asking me if I ever  
3 did it?

4 Q. So, yeah.

5 I'm asking you if -- when  
6 the video was available, if you watched  
7 it.

8 A. No.

9 MR. KOLANSKY: He's already  
10 said, no.

11 THE WITNESS: No. I did not  
12 watch it.

13 BY MR. INSCHO:

14 Q. Were you ever present while  
15 any counsel watched any of the video?

16 A. No.

17 MR. INSCHO: That's all the  
18 questions I have for you,  
19 Mr. Fulton. I appreciate your  
20 time. I hope you have a good time  
21 getting your work done with your  
22 home.

23 MR. NINOSKY: No questions.

24 MR. KOLANSKY: Just a

1 couple. Actually, no. It was  
2 covered. Thanks.

3 THE VIDEOGRAPHER: This  
4 concludes today's deposition.  
5 Going off record at 10:54 a.m.

6 - - -

7 (Whereupon, the deposition  
8 concluded.)

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CERTIFICATE

I, Lisa Capaldo, Registered Court Reporter, do hereby certify that prior to the commencement of the examination, CLARKE FULTON was duly remotely sworn by me to testify to the truth, the whole truth, and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by me at the time, place, and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.



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Lisa Capaldo, RPR  
Notary Public

INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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ACKNOWLEDGMENT OF DEPONENT

I, \_\_\_\_\_, do  
hereby certify that I have read the  
foregoing page and that the same is a  
correct transcription of the answers  
given by me to the questions therein  
propounded, except for the corrections or  
changes in form or substance, if any,  
noted in the attached Errata Sheet.

\_\_\_\_\_  
Clarke Fulton

\_\_\_\_\_  
DATE

Subscribed and sworn  
to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**DAVID W. W. ADAMI and HEATHER L.  
GIGLIO, CO-ADMINISTRATORS of the  
ESTATE OF FREDERICK J. ADAMI,  
DECEASED.,**

**Plaintiffs,**

**vs.**

**COUNTY OF BUCKS, BRIAN KIRCHER,  
PATRICK ROONEY, STEVEN COLUMBIA,  
C.O. KNONEBORG, LANGSTON MASON,  
TIMOTHY RICCI, DAVID GRESKO,  
PRIMECARE MEDICAL, INC., ET AL.**

**Defendants.**

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**CIVIL ACTION**

**NO. 2:19-cv-02187-JS**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Brief in Opposition to Plaintiffs' Motion in Limine was electronically filed with the Clerk of Court on March 4, 2022, using the CM/ECF system, and is available for viewing and downloading through the ECF system by all counsel of record.

Respectfully submitted,

/s/ Kerri E. Chewning

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